



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: IA/32564/2015

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On the 19 February 2018 (on the papers)**

**Decision & Reasons  
Promulgated**

**On 27 February 2018**

**Before**

**UPPER TRIBUNAL JUDGE REEDS**

**Between**

**MUHAMMAD FAIZAN NASIR  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION AND REASONS**

1. The Appellant is a citizen of Pakistan.
2. The Appellant with permission, appeals against the decision of the First-tier Tribunal (Judge Lenier), who in a determination promulgated on the 18<sup>th</sup> July 2017 dismissed his appeal against the decision of the Respondent to refuse his appeal under the Immigration (European Economic Area) Regulations 2006 based on the want of jurisdiction following the decision in Sala.
3. Permission to appeal is listed before the Upper Tribunal, permission having been granted by First-tier Tribunal Judge Saffer on the 4<sup>th</sup> January 2018.

4. In the light of Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755, the First-tier Tribunal granted permission to appeal on the basis that it was arguably wrong in law to have concluded that it did not have jurisdiction to hear the appeal.
5. On the 11<sup>th</sup> January 2018 the following direction was sent to the parties:

“In the light of Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755, the First-tier Tribunal granted permission to appeal on the basis that it was arguably wrong in law to have concluded that it did not have jurisdiction to hear the appeal.

The Upper Tribunal is minded to find an error of law, set aside the decision of the First-tier Tribunal and remit the case to the First-tier Tribunal.

A party who is opposed to this course is directed to inform the Tribunal in writing (giving reasons), not later than 7 days from the date this decision is sent by the Upper Tribunal. Following that period, the Upper Tribunal will issue its decision.”
6. There has been no response from either party to that direction and in the circumstances, based on the decision in Khan (as cited) the FTT erred in law in reaching the decision that there was no jurisdiction. I therefore set aside the decision. It will be remitted to the FTT to be heard afresh.

Decision:

The decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside and will be remitted to the First-tier Tribunal

Signed  
Upper Tribunal Judge Reeds

Date: 19/2/2018